

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LAILA KIA,

Plaintiff,

v.

THE CALIFORNIA PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM, and RAHIM KIA,

Defendants.

No. C 12-05317 JSW

**ORDER DENYING AS MOOT  
MOTION TO DISMISS FIRST  
AMENDED COMPLAINT AND  
ORDERING PLAINTIFF TO  
SHOW CAUSE RE SUBJECT  
MATTER JURISDICTION**

**(Docket No. 14)**

On January 22, 2013, Defendant, the California Public Employees' Retirement System ("CALPERS") filed a motion to dismiss Plaintiffs first, second and eighth claims for relief, which is scheduled for hearing on March 22, 2013. After the briefing on the motion was complete, Plaintiff filed a Notice of Voluntary Dismissal, in which she dismisses all pending claims against CALPERS. A plaintiff may voluntarily dismiss an action without leave of court "before the opposing party serves either an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). Accordingly, the Court DENIES AS MOOT CALPERS' motion to dismiss, and it VACATES the hearing scheduled for March 22, 2013.

Because Plaintiff has dismissed CALPERS she also has dismissed the only federal claim. The remaining claims all arise under state law, and it is not evident from the face of the First Amended Complaint that the parties are completely diverse.

Accordingly, Plaintiff is HEREBY ORDERED TO SHOW CAUSE why this case should not be dismissed for lack of subject matter jurisdiction. Plaintiff's response to this Order

1 to Show Cause shall be due by no later than March 1, 2013.

2 **IT IS SO ORDERED.**

3 Dated: February 12, 2013

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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE